

May 11, 2005

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Notice of *Ex Parte* Meeting
IP-Enabled Services, WC Docket No. 04-36**

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Federal Communications Commission's ("Commission") Rules, this letter serves to provide notice in the above-captioned proceeding of two *ex parte* meetings with Commission staff. On May 11, 2005, the undersigned along with Mr. Christopher Murray of Vonage Holdings Corp. ("Vonage"), and Alfred Mottur of Brownstein Hyatt Farber participated in a meeting with Scott Bergmann, Legal Advisor to Commissioner Adelstein, and Barry Ohlson, Senior Legal Advisor to Commissioner Adelstein. The second meeting was with Lauren Belvin, Legal Advisor to Commissioner Abernathy.

Vonage began the meetings by emphasizing that it wants to provide full E-9-1-1 services to its customers and that it is and ready willing to do so. Vonage advised the Commission that its current delivery system has successfully completed just under 200,000 9-1-1 calls. Nevertheless, Vonage believes that significant progress can be made toward the delivery of VoIP E-9-1-1 if Vonage and others are given an *enforceable right* to access the 9-1-1 infrastructure.¹

¹ As Vonage stated in its May 9, 2005 letter to this Commission, CLECs can not provision service to 21% of the nation's zip codes which Vonage believes represents approximately 8% of the nation's access lines. Moreover, notwithstanding the apparent suggestions of many RBOCs – the record in this proceeding is undeniably clear – CLECs do not have access to the ALI steering, pANI or pALI necessary to provision VoIP 9-1-1 services to nomadic VoIP service providers. *See e.g. Id.* Indeed it is significant that even the nation's largest CLEC, AT&T has stated that failure to mandate access to the selective router would be "tantamount to ordering the discontinuance of service to existing customers outside of AT&T's CLEC footprint and limiting availability of AT&T CallVantage Service solely to those customers located in AT&T's local footprint." *See Letter of Robert W. Quinn, Vice President Federal Government Affairs, WC Docket No. 04-35 (filed May 9, 2005); See also Letter of Sherman Henderson, Lightyear Network Solutions LLP, WC Docket No. 04-36 (filed May 10, 2005) (describing CLEC affiliate inability to access elements); Letter of David A. LaFuria, WC Docket No. 04-36, Counsel for Midwest Wireless Communications L.L.C (requesting mandated access to selective routers).*

Furthermore, although many RBOCs have issued press releases championing their efforts to deploy VoIP 9-1-1 – most of these solutions do not accommodate nomadic applications either because they can not handle out of rate center telephone numbers or, as is the case with others – ALI steering is unavailable. Without ALI steering capability, ALI information can not be transmitted to the 9-1-1 dispatcher and true E-9-1-1 can not be provided.

It is important for this Commission to be aware that – notwithstanding the press releases and public commitments of several RBOCs - Vonage has thus far only been permitted to commence provisioning orders for native VoIP 911 within the City of New York. Because of these types of delays in provisioning, Vonage underscores the importance FCC mandating ILEC provisioning timetables and direct access to ALI steering and pANI elements. Vonage notes that as an unaffiliated VoIP provider it will be reliant upon ILECs and third party carriers for the provisioning of any 9-1-1 solution. The cooperation of these parties will be essential to meeting any obligations this Commission will place on Vonage.

Although Vonage has successfully completed almost 200,000 9-1-1 calls, Vonage is committed to improving the capabilities for VoIP 9-1-1 call delivery. Vonage is cognizant of the fact that this Commission's previous 9-1-1 Orders have been sensitive to the different technical characteristics, capabilities, and uses of different technologies and services.² In recognition of past Commission precedent in this area, as well as the importance of achieving the expedited deployment of VoIP 911, Vonage believes that it can achieve the following benchmarks within 120 days of the effective date of any Order that may seek to impose obligations on interstate VoIP providers, assuming that the Commission also streamlines PSAP coordination processes and provides for mandated provisioning deadlines as well as mandated access to the elements previously requested by Vonage.

120 Day Benchmarks

(1) **Automatic 9-1-1 Enrollment.** Under this mechanism customers would automatically be defaulted into receiving 911 services unless they expressly and affirmatively declined to receive 911. Customers receiving 911 services must first input accurate physical location before service activation. Vonage maintains however that the FCC should permit customers the option of declining 911 if they so choose. This is particularly important where an ATA may be nomadic or in other situations where the customer affirmatively decides that they are unlikely or unable to provide Vonage with a timely update of their location information.

² See Attachment 1. See also, Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements; Petition of the National Telecommunications and Information Administration to Amend Part 25 of the Commission's Rules to Establish Emissions Limits for Mobile and Portable Earth Stations Operating in the 1610-1660.5 MHz Band, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 25576, para. 20 (2002) ("E-911 Scope Order").

(2) **Call Center Availability**³: When a **customer who activated 911** is somehow unable to connect a call to a PSAP line -- that caller shall automatically be directed to a call center staffed with trained personnel capable of handling such emergency service calls.⁴ Call center personnel shall be capable of accessing available customer records and shall be able to receive, at minimum, ANI information. The call center shall also have a capability of manually accessing a database of previously provided customer information and undertaking efforts to determine the caller's location so that the caller can be forwarded, at minimum, to personnel at the appropriate PSAP. For purposes of this provision, the appropriate PSAP shall be determined by the call center, either through communication with the caller or by accessing previously provided customer records. By December 31, 2005 the call center shall also be capable of electronically receiving customer provided ALI information.

In instances where a customer has **affirmatively chosen not to activate 911** and the caller dials 911, the call shall be directed to a call center staffed with trained personnel capable of handling such emergency calls. Call center personnel shall be capable of accessing available customer records and shall be able to receive, at minimum, ANI information. The call center shall, have a capability of manually accessing a database of previously provided customer information, and must be capable of undertaking efforts to determine the caller's location so that the caller can be forwarded to an appropriate PSAP. For purposes of this provision, the appropriate PSAP shall be determined by the call center either through communication with the caller or, if communications is impossible, a determination made by call center staff.

(3) **Rollout and Delivery**: Vonage will aggressively pursue efforts to obtain signed commercial agreements necessary to provision direct 9-1-1 call delivery and E-9-1-1 call delivery where PSAPs are capable of receiving such information. Vonage will rollout 9-1-1 and VoIP 9-1-1 where it is made available on commercially reasonable terms and conditions similar to that offered to other similarly situated providers. Pursuant to Section II below, Vonage is prepared to report on its progress in this regard within 120 days from the effective date of any obligation that may be imposed on it. Vonage notes that is prepared to roll out a native VoIP E-1-1 product in New York City in June. This native 9-1-1 solution will provide at least 10% of Vonage's customers direct access to dedicated 9-1-1 dispatchers. Vonage is also committed to a complete rollout of VoIP 911 as soon as it can order trunks, provision services, and complete testing and PSAP coordination.

While Vonage is committed to meeting an aggressive timeline for the nationwide deployment of VoIP 911 services, the majority of this nation's VoIP customers do not receive services through providers affiliated with CLECs. Even AT&T, the nation's single largest CLEC, recognizes the importance of a mandate on access to ALI steering and other wireless

³ The FCC adopted a similar solution when imposing an interim 911 obligation on MSS Services. In that instance the FCC noted that "the MSS call center requirement will remain effective until such time that an appropriate E911 implementation schedule can be determined." *See Attachment 1.*

⁴ This capability and all 911 connectivity is, of course, dependent upon the availability of third-party provided Internet connectivity to the customer. Vonage does not provision broadband to its customers.

access elements.⁵ As an unaffiliated VoIP provider, Vonage must work with many different access providers including both ILECs and CLECs. All VoIP providers will face challenges in provisioning and testing services with individual PSAPs.

The significance of a mandate and timelines on incumbent carrier and PSAP provisioning can not be underestimated. While Vonage has reached an agreement in principal with several RBOCs for the provisioning of a nomadic VoIP offering - it has as of yet not been able to place a single trunk (outside of New York City). Accordingly, the imposition of any deployment obligations on Vonage must also be accompanied by a reciprocal obligation to provision selective router access and ALI steering in a timely manner.

Registration and 120 Day Certification

To the extent that the FCC believes it has the authority to impose requirements on VoIP providers and requires them to meet certain provisioning obligations within a date certain, the FCC should also permit providers – to the extent they have been unable to meet such obligations – attest why it was technologically or economically impossible to comply with these obligations in the time frame mandated in the FCC order. It seems reasonable to Vonage that providers failing to meet such obligations should be required to report back to the FCC in regular intervals until they satisfy the provisioning mandates contained in this Order. The FCC may also consider that all VoIP providers covered by this Order register with the FCC prior to offering services and that they also seek similar 9-1-1 certification within 120 days of their registration.

⁵ AT&T has stated that failure to mandate access to the selective router would be “tantamount to ordering the discontinuance of service to existing customers outside of AT&T’s CLEC footprint and limiting availability of AT&T CallVantage Service solely to those customers located in AT&T’s local footprint.” See Letter of Robert W. Quinn, Vice President Federal Government Affairs, WC Docket No. 04-35 (filed May 9, 2005);

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Pursuant to the Commission's Rules, this letter is being electronically submitted to the Secretary for filing in the above-referenced proceeding.

Sincerely,

/s/
William B. Wilhelm, Jr.

Counsel for Vonage Holdings Corp.

Attachments Enclosed

cc: Chairman Kevin Martin
Commissioner Kathleen Abernathy
Commissioner Jonathan Adelstein
Commissioner Michael Copps
Michelle Carey
Jessica Rosenworcel
Scott Bergmann
Barry Ohlson
Lauren Belvin
Julie Veach
Thomas Navin